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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SYED MIZANUR ALI and MOHAMMED HASSAN, on behalf of themselves and on behalf of other similarly situated individuals,

Plaintiffs,

- *against* -

DAVID BOULEY LLC, DAVID BOULEY ATELIER LLC, BOULEY BAKERY OPERATING LLC, BOULEY DUANE STREET LLC, BOULEY INTERNATIONAL, INC., and DAVID BOULEY, in his individual and professional capacities,

Defendants.

14 Civ. 7135 (PAC)

ORDER

HONORABLE PAUL A. CROTTY, United States District Judge:

The individual plaintiffs accepted Rule 68 Offers of Judgment in full and final resolution of their claims:

Plaintiff Syed Ali - $25,000

Plaintiff Mohammed Hassan - $15,000

Analysis of each plaintiff's award supports the conclusion that the amount paid is equal to the total estimated damage, including liquidated damage, for that individual. Plaintiffs recovered the full amount of their claims.

The parties agreed separately that plaintiffs' attorneys' fees would be paid by defendant in the amount of $57,500. The FLSA allows for the recovery of attorneys' fees, as plaintiffs are the prevailing party. The time billed analysis supports a higher award, but the claim has been reduced by negotiation between the parties. No part of the attorneys' fees will be charged against the plaintiffs' recovery. And there is no concern here that the attorneys may have been less than zealous in their advocacy and representation. Counsel sought certification for a collective action, but the Court denied the plaintiffs' motion.

Plaintiffs' counsel questions whether "judicial approval is necessary before payment can be made as to a separately negotiated attorneys' fee award where a Rule 68 Offers of Judgment is accepted." Settlement of FLSA actions require judicial approval, however, even if the parties' dispute is resolved under Rule 68. Indeed, it is the FLSA which allows for attorney fees, and so it is no surprise that judicial approval of the settlement of this case is required. The FLSA is a protective statute; it protects working women and men by assuring that all workers receive a fair day's pay for a fair day's work. Judicial approval of settlement of FLSA cases, regardless of the modality of settlement, is entirely consistent with the FLSA's goal. Judicial approval protects workers against the unscrupulous employer and those with disparate bargaining power. See Cheeks v. Freeport Pancake House, Inc., 796 F.3d 199 (2d Cir. 2015).

The Court holds that the plaintiffs have received full compensation for their wage losses; and the separately negotiated attorneys' fees and costs are fair and reasonable. Accordingly, the Settlement is approved.

Dated: New York, New York
October 18, 2016

SO ORDERED

PAUL A. CROTTY
United States District Judge